



**US Army Corps  
of Engineers®**  
New England District

696 Virginia Road  
Concord, MA 01742-2751

# PUBLIC NOTICE

Date: **February 1, 2000**

Comment Period Ends: **March 3, 2000**

File Number: **199902629**

In Reply Refer To: **Mr. Brian Valiton**

Or by e-mail: **Brian.E.Valiton@usace.army.mil**

**MacDougall's Cape Cod Marine Service, Inc., 145 Falmouth Heights Road, Falmouth, Massachusetts, 02540, has requested a Corps of Engineers permit, under Section 10 of the Rivers and Harbors Act of 1899, to remove some existing structures, including some moorings, to relocate other structures and to add new docking systems. These structures will expand the existing area of the harbor that will be occupied by the marina's fixed structures and will increase the number of vessels utilizing this marina facility. The marina currently accommodates 93 vessels. If permitted, once the reconstruction/expansion is finished the marina will accommodate 103 vessels. All of these structures are in Falmouth Inner Harbor at Falmouth, Massachusetts.**

**The work to be done is shown on the attached drawings and is set forth in detail as follows:**

- a. remove the existing pile-anchored pier, ramp and floats (on the southerly portion of the property) as well as the existing engine dock and replace it with a seasonal 'T' head pile-anchored float system with 310 linear feet of 6' wide main floats and 245 linear feet of 3' wide finger floats;**
- b. remove the two existing dock systems in the middle of the parcel and replace them with a new dock to built on the seaward end of the existing pier and consisting of approx. 296 linear feet of main pile-anchored floating docks 6' wide and 195 linear feet of floating docks 3 feet wide; and**
- c. to relocate an existing seasonal float within the marina basin; and**
- d. to establish a reconfiguration perimeter within which floats and piles can be re-arranged.**

**The proposed structures that are the subject of this permit application are shown on the attached drawings. In the near future, the applicant will also be proposing dredging and new shoreline construction at this facility. That portion of the project is not ready for regulatory review at the present time and will be the subject of a separate review and analysis.**

**The property is at UTM coordinates N 4600420.00 and E 0366310.00, Zone 19, located on the USGS Falmouth, Mass. quadrangle sheet. This area has been designated under the Fisheries Management Plan as Essential Fisheries Habitat (EFH) for Atlantic cod, haddock, pollock, winter flounder, windowpane flounder, bluefish, long finned squid, Atlantic mackerel, Atlantic butterfish, summer flounder, scup, black sea bass, surf clam, king mackerel, Spanish mackerel, and**

cobia. The potential effects of this activity will be limited to the shading of marine habitats under the proposed structures and minor disturbance of the bottom sediments during the driving of the piles. The structures are for private commercial use. Based on information provided, direct, indirect and cumulative adverse effects of this action to EFH have been determined to be minor.

In order to properly evaluate the proposal, we are seeking public comment regarding the impacts of allowing the applicants to add the new proposed structures. We must determine whether or under what circumstances these structures should be permitted. Anyone wishing to comment is encouraged to do so. Comments should be submitted, in writing, by the above date. If you have any questions, please contact Mr. Brian E. Valiton at (978) 318-8166 or use our toll free number (800) 362-4367 if calling from within Massachusetts or (800) 343-4789 if calling from outside of Massachusetts.

Any person may be request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for a public hearing shall specifically state the reasons for holding a public hearing. The Corps holds public hearings for the purpose of obtaining public comments, when that is the best means for understanding a wide variety of concerns from a diverse segment of the public.

**SEE NEXT PAGE FOR  
DETAILS OF EVALUATION  
FACTORS**

**Karen Kirk Adams  
Chief, Permits & Enforcement Section  
Regulatory Branch**

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity in the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which may reasonably accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are: conservation, economics, aesthetics, general environmental concerns, wetlands, cultural value, fish and wildlife values, flood hazards, flood plain value, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people.

Where the activity involves the discharge of dredged or fill material into waters of the United States or the transportation of dredged material for the purpose of disposing it in ocean waters, the evaluation of the impact of the activity in the public interest will also include application of the guidelines promulgated by the Administrator, U.S Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act, and/or Section 103 of the Marine Protection Research and Sanctuaries Act of 1972 as amended.

Based on his initial review, the District Engineer has determined that little likelihood exists for the proposed work to impinge upon properties listed in, or eligible for listing in, the National Register of Historic Places, and no further consideration of the requirements of Section 106 of the National Historic Preservation Act of 1966, as amended, is necessary. This determination is based upon one or more of the following:

- a. The permit area has been extensively modified by previous work.
- b. The permit area has been recently created.
- c. The proposed activity is of limited nature and scope.
- d. Review of the latest published version of the National Register shows that no presence of registered properties listed as being eligible for inclusion therein are in the permit area or general vicinity.

Pursuant to the Endangered Species Act, the District Engineer is hereby requesting that the appropriate Federal Agency provide comments regarding the presence of and potential impacts to listed species or its critical habitat.

The initial determinations made herein will be reviewed in light of facts submitted in response to this notice.

The following authorizations have been applied for, or have been, or will be obtained:

- ☒ ( X ) Permit, License or Assent from State.
- ☒ ( X ) Permit from Local Wetland Agency or Conservation Commission.
- ☐ ( ) Water Quality Certification in accordance with Section 401 of the Clean Water Act.

The States of Connecticut, Maine, Massachusetts, New Hampshire and Rhode Island have approved Coastal Zone Management Programs. Where applicable the applicant states that any proposed activity will comply with and will be conducted in a manner that is consistent with the approved Coastal Zone Management Program. By this Public Notice, we are requesting the State concurrence or objection to the applicant's consistency statement.

All comments will be considered a matter of public record. Copies of letters of objection will be forwarded to the applicant who will normally be requested to contact objectors directly in an effort to reach an understanding.

**THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.**

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